

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**CHARLES THOMAS,**

**Plaintiff,**

**v.**

**JOHN ASHCROFT, et al.,**

**Defendants.**

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**CIVIL NO. 3:CV-05-0090**

**(Judge Caputo)**

**ORDER**

Plaintiff, Charles Thomas, an inmate at the Allenwood Federal Correctional Institution ("FCI-Allenwood") in White Deer, Pennsylvania, commenced this *pro se* action with a complaint setting forth a *Bivens*<sup>1</sup> civil rights claim, a claim under the Federal Tort Claims Act<sup>2</sup> ("FTCA"), and a claim under the Privacy Act.<sup>3</sup> Plaintiff names several Defendants including a Defendant identified only as "Mr. Erickson." Subsequently, service was effected upon all of the Defendants except Erickson. Defendants filed a motion to dismiss Plaintiff's complaint, and in their brief in support of the motion (Doc. 40), Defendants claim that there is no Defendant Erickson associated with Plaintiff's claims, and the Defendant is unknown at this time. (Doc. 40, n. 5.)

Absent compelling reasons, a district court may dismiss unknown defendants if a plaintiff, after being granted a reasonable period of discovery, fails to identify them. *Hindes*

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1. *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). *Bivens* stands for the proposition that "a citizen suffering a compensable injury to a constitutionally protected interest could invoke the general federal question jurisdiction of the district court to obtain an award of monetary damages against the responsible federal official." *Butz v. Economou*, 438 U.S. 478, 504 (1978).

2. 28 U.S.C. § 2671 *et seq.*

3. 5 U.S.C. § 552(a).

*v. F.D.I.C.*, 137 F.3d 148, 155 (3d Cir. 1998) (citations omitted). Based on this Court's review of the record, although this action was filed over a year ago, Plaintiff has not yet provided this Court with a further identification of Mr. Erickson. Thus, Plaintiff will be granted leave to properly provide a more specific identification of Mr. Erickson. If Plaintiff fails to adequately identify this defendant, he shall be dismissed from this action under the authority of *Hindes*.

**ACCORDINGLY, THIS 8<sup>th</sup> DAY OF MARCH, 2006, IT IS HEREBY ORDERED**  
**THAT** Plaintiff shall identify the Defendant referred to in the complaint as "Mr. Erickson" on or before March 20, 2006. If Plaintiff fails to adequately identify this Defendant in the time prescribed, such Defendant will be dismissed from this case. Fed. R. Civ. P. 41(b); *Hindes v. F.D.I.C.*, 137 F.3d 148, 155 (3d Cir. 1998).

/s/ A. Richard Caputo  
A. RICHARD CAPUTO  
United States District Judge